

Application No. 10/655,322

REMARKS

Claims 1-19 and 21 are pending. All of the pending claims stand rejected. Applicants respectfully request reconsideration of the rejections based on the following comments.

Double Patenting Rejection Over U.S. 6,136,287

The Examiner rejected claims 1-7, 9-15, 17-19 and 21 under non-statutory obviousness-typically double patenting as being unpatentable over claims 1-8 and 18-21 of U.S. Patent 6,136,287. Applicants are submitting a Terminal Disclaimer over U.S. 6,136,287 with this Response. The Terminal Disclaimer obviates the non-statutory obviousness-type double patenting rejection. In view of the Terminal Disclaimer, Applicants respectfully request withdrawal of the rejection of claims 1-7, 9-15, 17-19 and 21 under non-statutory obviousness-typically double patenting as being unpatentable over claims 1-8 and 18-21 of U.S. 6,136,287.

Double Patenting Rejection Over U.S. 6,225,007

The Examiner rejected claims 1-5, 8-13 and 16-19 under non-statutory obviousness-typically double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,225,007 to Horne et al. (the Horne patent). Applicants note that the present application has a priority date prior to the priority date of the Horne patent. Therefore, the present application is not and cannot be a way to extend the patent term of the later filed application. Under the patent term rules currently in place, an earlier priority date application should not be rejected for obviousness-type double patenting over a later filed patent. See, MPEP 804.02 VI. Therefore, Applicants respectfully request withdrawal of the rejection of claims 1-5, 8-13 and 16-19 under the judicial doctrine of Obviousness-Type Double Patenting over the Horne patent.

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CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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